



## **Town of Arlington, MA Redevelopment Board**

### **Agenda & Meeting Notice April 1, 2024**

Per Board Rules and Regulations, public comments will be accepted during the public comment periods designated on the agenda. Written comments may be provided by email to [cricker@town.arlington.ma.us](mailto:cricker@town.arlington.ma.us) by Monday, April 1, 2024, at 3:00 pm. The Board requests that correspondence that includes visual information should be provided by Friday, March 29, 2024, at 12:00 pm.

The Arlington Redevelopment Board will meet Monday, April 1, 2024 at 7:30 PM in the **Arlington Community Center, Main Hall, 27 Maple Street, Arlington, MA 02476**

#### **1. Review Meeting Minutes**

7:30 pm      The Board will review and vote to approve meeting minutes.

#### **2. Public Hearing: Redevelopment Board Rules and Regulations**

7:35 pm      The Board will deliberate and vote on proposed changes to Rules 18 and 20 of the Board's Rules and Regulations.

#### **3. Board Report to Town Meeting**

8:15 pm      The Board will discuss and vote on the Redevelopment Board Report to 2024 Annual Town Meeting.

#### **4. Open Forum**

9:15 pm      Except in unusual circumstances, any matter presented for consideration of the Board shall neither be acted upon, nor a decision made the night of the presentation. There is a three-minute time limit to present a concern or request.

#### **5. New Business**

9:15 pm

#### **6. Adjourn**

9:30 pm      (Estimated)



## Town of Arlington, Massachusetts

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### Review Meeting Minutes

#### Summary:

7:30 pm        The Board will review and vote to approve meeting minutes.

#### ATTACHMENTS:

Type	File Name	Description
❑ Reference Material	03182024_AMENDED_Minutes_Redevelopment_Board.pdf	03182024 AMENDED Minutes Redevelopment Board

**Arlington Redevelopment Board  
Monday, March 18, 2024, at 7:30 PM  
Community Center, Main Hall  
27 Maple Street, Arlington, MA 02476  
Meeting Minutes**

This meeting was recorded by ACMi.

**PRESENT:** Rachel Zsembery (Chair), Eugene Benson, Shaina Korman-Houston, Kin Lau, Stephen Revilak

**STAFF:** Claire Ricker, Director of Planning and Community Development; Sarah Suarez, Assistant Director of Planning and Community Development

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The Chair called the meeting of the Board to order.

The Chair opened with **Agenda Item 1 – Review Meeting Minutes.**

March 4, 2024 – The Board members had no changes to the minutes. The Chair requested a motion to approve the March 4 minutes as submitted. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously in favor.

The Chair moved to **Agenda Item 2 – Public Hearing: Warrant Articles for 2024 Annual Town Meeting.**

Certified notice regarding Article 31 was sent to abutters after the March 5, 2024, hearing, so the Chair opened the floor to public comment on Article 31. Seeing none, the Chair closed public comment on Article 31.

**ARTICLE 25: BUILDING DEFINITIONS.**

The Chair explained that Article 26 changes the definitions of attached and detached buildings.

Mr. Lau said that he supports this article; it clears up ambiguities in the definitions.

The Chair noted that the Board discussed this article with Christian Klein, Chair of the Zoning Board of Appeals, who requested that this change be made because some buildings do not clearly fall into the attached or detached category.

Ms. Korman-Houston agreed that this article is a sensible clarification.

Mr. Benson said that he and Mr. Klein met with Mike Ciampa, Director of the Inspectional Services Department (ISD), and they wrote the proposed definitions based on the way that ISD has been interpreting the bylaw.

Mr. Revilak said that it is important to make these kinds of clarifications so that the bylaw is easier to interpret and apply.

The Chair asked for a motion to recommend Favorable Action on Article 25. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously.

**ARTICLE 26: ADMINISTRATIVE CLARIFICATION.**

The Chair explained that Article 26 is an administrative clarification relating to the citations for residential district yard and open space requirements.

Mr. Lau said that he supports this clarification.

Ms. Korman-Houston agreed.

Mr. Benson noted that this article specifically includes an additional exception found elsewhere in the bylaw. Mr. Klein requested that the exception be referenced in Section 5.4.2.A in order to make the interpretation and application of the bylaw clearer.

Mr. Benson also noted that the Board would need to request that Article 27 be considered before Article 26, because Article 27 changes how the subsections in Section 5.9.2 are enumerated, and Article 26 refers to the re-enumerated Section 5.9.2.B.(1)e. The Chair noted that the Town Moderator could instead add both Articles 26 and 27 to the Consent Agenda.

Mr. Revilak said that he supports the proposed change.

The Chair asked for a motion to recommend Favorable Action on Article 26. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously.

#### **ARTICLE 27: ADMINISTRATIVE CORRECTION.**

The Chair explained that Article 27 is an administrative correction replacing bullet points with letters, making Section 5.9.2.B.(1) consistent with how other Sections of the bylaw are notated.

Mr. Lau said that he supports this article as it makes this section of the bylaw easier to follow.

Ms. Korman-Houston said that she also supports this clarification.

Mr. Benson noted that this was also a change requested by Mr. Klein of the ZBA, so that it would be easier for them to cite this section in decisions. He also noted that this Article would delete a subsection that is no longer needed because the dates it refers to have passed.

Mr. Revilak said that he also supports this article in order to make it easier to cite individual provisions of Section 5.9.2.B. He also offered a clarification in response to a letter the Board received. This article would not add provisions to allow for Accessory Dwelling Units; such provisions have already been in the bylaw for several years. The article would only change a bulleted list to an enumerated list and strike one provision which is no longer relevant.

The Chair asked for a motion to recommend Favorable Action on Article 27. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously.

#### **ARTICLE 28: DELETE INLAND WETLAND OVERLAY DISTRICT.**

Mr. Lau said that he supports Article 28. He noted that the Conservation Commission requested this change, because the Inland Wetland Overlay District is redundant, and the Commission's regulations are more strict than the regulations included in the Inland Wetland Overlay District.

Ms. Korman-Houston said that she also supports Article 28. She noted that the Conservation Commission's concern was one of jurisdiction; the inclusion of the overlay district in the zoning bylaw made it difficult to determine which Town body has jurisdiction over wetland areas. Eliminating the district would ensure that the Conservation Commission, which maintains the most stringent and most up-to-date wetland regulations, has jurisdiction over wetlands. Community members have expressed concern that this article would weaken environmental protections, but it would actually strengthen them by giving the Conservation Commission greater jurisdiction.

Mr. Benson noted that Mr. Klein also requested this article, as it created an overlap of jurisdiction between the Zoning Board of Appeals and the Conservation Commission in certain cases. David Morgan, the Conservation Agent, assured the Redevelopment Board that the jurisdiction of the Conservation Commission, through state wetlands laws and regulations, and the Town's wetlands bylaws and regulations, provides as much protection as the overlay district, so there is no need to maintain the overlay district in the Zoning Bylaw. The overlay district might have been necessary at one time, but since the state and Town's wetlands protection regulations have been strengthened, it is now superfluous.

Mr. Revilak said that he thinks the Conservation Commission is the most appropriate body to adjudicate issues regarding wetlands, and removing this section of the bylaw will clarify which body has jurisdiction over such matters.

The Chair asked for a motion to recommend Favorable Action on Article 28. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously.

#### **ARTICLE 29: REDUCED HEIGHT BUFFER.**

Mr. Revilak explained that after the Board's hearing on Article 29 on February 26, he compared the current language in the bylaw with the language in the warrant from the 1975 Special Town Meeting. They are identical, with two exceptions: the mention of the R0 and Open Space districts, which were not part of the bylaw in 1975. In particular, the height buffer distances have been unchanged since 1975. In the intervening years, the B5, R7, and PUD districts have been significantly down-zoned in terms of height reductions. In his research into the history of the zoning bylaw, Mr. Revilak could find no discussion of changing the height buffer distances to reflect the reduced height maximums. This article would eliminate the resulting internal inconsistency in the bylaw. Mr. Revilak's proposal is to reduce the height buffer distances by 50%, because the height reductions across the affected districts average approximately 50%, but he is open to considering a different amount of reduction.

Mr. Benson asked Mr. Revilak for the specific amounts of the height reductions in the three districts. Mr. Revilak replied that the R7 district was reduced from 110 to 60 feet; the PUD district was reduced from 200 to 80 or 85 feet; and the B5 district was reduced from 110 to 75 feet.

Mr. Benson noted that Article 29 applies only in the few instances in which the bylaw allows two different heights within the same zoning district. The purpose of Section 5.3.19.A is to prevent shadows. Given that the overall height maximums have been reduced, it makes sense that the buffer distances required also be reduced. The Board has always had the ability to allow the higher height limit if they felt that it did not have a detrimental impact based on the criteria in Sections 3.3 and 3.4, so all Article 29 does is add a clarity going forward as to what the minimum buffer should be.

Ms. Korman-Houston asked Mr. Revilak how many parcels this section of the bylaw impacts. She attempted to count and thinks it only affects about six parcels. Mr. Revilak replied that he has never attempted to count such parcels. Ms. Korman-Houston agrees with Mr. Benson that whatever the actual number, not many parcels are affected. She thinks that a somewhat larger reduction than the 50% proposed by Mr. Revilak would make sense.

Mr. Lau agreed with previous comments that reducing the height buffer distances makes sense.

The Chair asked Ms. Ricker if the Department of Planning and Community Development (DPCD) had any comments. Ms. Ricker replied that the research into this issue done by former Assistant Director Kelly Lynema was also applicable to the rear yard setback issue that the Board was working on. So the specific reductions Ms. Lynema proposed of approximately 75% were meant to work in concert with the changes in rear yard setbacks. Ms. Ricker also noted that other towns abutting Arlington do not include height buffers in their own zoning bylaws, but they do have rear setback requirements for commercial property abutting residential property which achieve much the same effect.

Mr. Benson said that the height difference in these situations is generally no more than one story, not huge disparities. In that context, reducing the height buffer distances makes sense.

The Chair asked for a motion to recommend Favorable Action on Article 29. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously.

#### **ARTICLE 30: SHADED PARKING LOTS.**

Mr. Lau said that he does not support Article 30 because it puts too much of a burden on businesses, property owners, and developers.

The Chair said that she finds this article too prescriptive. She is in favor of adding shade trees and landscaping to developments, and the Board often works on creative solutions with the developers who bring projects to the

Board, and developers are generally very willing to work with the Board. This Article would specify exactly what a developer is required to do in a parking lot, and it would make it more difficult for the Board to work with them to find creative solutions given the limited space generally available for parking.

Ms. Korman-Houston thinks that finding ways to respond to environmental issues such as heat islands and runoff is important. She appreciates the willingness of the proponents to work with the Board on crafting a proposal that will work for developers. She thinks that the article as currently written is acceptable, but she understands the concerns of other Board members.

Mr. Benson said that he thinks that the Town should be doing as much as possible to counter climate disruption, including zoning that reduces the effects of heat islands on private property, something the Board has done with zoning changes in the past. He shared a photo of the Whole Foods parking lot and noted that a significant amount of shade is provided by the trees on neighboring properties on two sides of the parking lot. He asked the proponents to add a provision to the article saying that the total number of trees required could be modified by the Board, taking into account parking spaces that are already shaded by off-property trees, which they agreed to. He noted that they also slightly increased the spacing required for trees in response to comments from the Board at the hearing on March 4. He thinks that this article is appropriately prescriptive. It is true that the Board often works with developers to add more landscaping, but having this article added to the zoning bylaw will clarify this expectation for developers, rather than leaving it entirely to the discretion of the Board. He also noted that this article is similar to the requirements that already exist for parking lots in industrial zones. Currently, at least 8% of parking lot areas must be landscaped, so adding trees to that landscaping does not add a significant burden. The Town also needs to consider adding more trees in public spaces, but it is important for private property owners to do their part as well.

Mr. Revilak supports the idea of doing something to mitigate the effects of heat islands. He also appreciates the proponents' willingness to work with the Board to modify the proposal.

Mr. Lau said that parking is expensive. Putting a garage underground is 10 times more expensive than surface parking. Taking away space for parking by requiring the addition of trees makes it harder for developers. The Board already does a good enough job working with developers to get them to add trees and landscaping; an addition to the bylaw requiring it is not necessary. The Town should find other places to add trees. Developers are not going to want to build larger buildings that require more parking if they know that they will go over the 25-space threshold, and it will limit development.

The Chair noted that the Board has wanted to look at parking in general in Arlington, including Transportation Demand Management Plans, starting this coming summer. The Board could decide to look at this article in concert with the other parking reviews they will be doing.

Mr. Benson said that parking lots of over 25 spaces currently require at least 8% landscaping, so he does not think this article adds a significant burden. Two years ago, the Board decided to recommend a change in the zoning bylaw requiring developers to plant street trees every 25 feet. This proposal is a logical next step. The other parking issues that the Board will be consider are quite different from this proposal.

Mr. Benson moved to recommend Favorable Action on Article 30. Mr. Revilak seconded, and the Board voted 3-2 in favor, with the Chair and Mr. Lau opposed.

#### **ARTICLE 31: ADD 5-7 WINTER TO THE MBTA NEIGHBORHOOD DISTRICT.**

Article 31 would add 5-7 Winter Street to the MBTA Communities Overlay District, in the Neighborhood Multi-Family Subdistrict.

Mr. Lau said that when the Board originally planned the MBTA Communities Overlay District, their intent was not to include historic properties in the district. The proponent of this article pointed out that the Board missed other historic properties, and they are included in the Overlay District. The proponent also pointed out that the property at 5-7 Winter Street is immediately behind a row of commercial properties. Because that row of properties is very narrow, it's impossible to further develop them. Mr. Lau said that he supports this article.

Ms. Korman-Houston said that 5-7 Winter St is a reasonable and appropriate site to be included in the Overlay District. Its omission was intentional because it is a historic property, but she believes that existing protections for historic properties are enough to protect the historic nature of this property and prevent inappropriate development, even if it is included in the MBTA Communities Overlay District. She would recommend favorable action.

Mr. Benson agrees with the substance of this article, but he thinks there was a procedural defect which makes him unable to support it. The zoning bylaw says that when a petitioner files a petition to change the zoning map, they must notify abutters by registered or certified mail of the petition. That did not happen in this case, even though Mr. Benson told the petitioner John Leone that certain notice requirements must be followed when he met with the Board months ago. Mr. Leone did notify abutters by certified mail after the hearing on March 4, 2024. The Chair had a series of email communications with Town Counsel, who said that as long as the opportunity for public comment has not passed, the notification satisfied requirement in the zoning bylaw, which is why the Chair opened this hearing with the opportunity for public comment on this article. But Mr. Benson noted that the materials that Mr. Leone sent to the abutters did not inform them that they would have the opportunity to participate in public comment at this meeting. Mr. Benson would prefer not to vote on this article at this meeting. Instead, he would like Mr. Leone to send out another notice indicating that there will be an opportunity for public comment at the Board's next regularly scheduled meeting, after which the Board can vote. Without that opportunity, Mr. Benson cannot support this article.

Mr. Revilak said that he also supports the substance of the article, given its location and the fact that surrounding properties were included in the Overlay District.

The Chair addressed Mr. Benson's suggestion about postponing the vote until the Board's next meeting, which is scheduled for April 1, 2024. At that time, the Board plans to review and approve their Report to Town Meeting. Reports to Town Meeting are due by April 8, so the Board must approve their Report before then. If the Board postpones the vote on Article 31 to April 1, there will not be enough time to prepare and approve the Report. She noted that the meeting tonight was publicly posted. Town Counsel did review this situation and said if the petitioner can show that notification to the abutters was made before the opportunity for public comment has closed, the requirements of the bylaw are satisfied. The Chair feels that because they opened the floor for public comment at the beginning of this meeting, the requirements have been met. Mr. Benson noted that they officially closed public comment on this article at the March 4 meeting, and the abutters were not given notice that public comment had been reopened. Mr. Benson suggested that DPCD staff prepare the section of the Board Report about this article except for the vote itself, giving the opportunity for public comment at the next meeting, immediately followed by the Board's vote on this Article and the Board's approval of the Board Report, both at the April 1 meeting. Mr. Revilak proposed holding a short meeting on March 25, for the purpose of public comment on Article 31, but Mr. Benson is unavailable on that date.

Ms. Ricker noted that all hearings and votes are required to take place within 65 days of the close of the warrant. If the Board plans to vote on one of the articles on April 1, she would want to confirm with Town Counsel that the vote would not be outside the 65-day window.

The Chair believes, based on her communication with Town Counsel, that the requirements have been met. If one of the abutters raised a due process claim, Mr. Leone would have to start this process over, and she asked him if he would like to withdraw his petition. He replied that as he reads the zoning bylaw, it is about the required notice for Town Meeting, not for the Redevelopment Board hearing. The abutters will have the opportunity to attend Town Meeting and can be heard there, so he believes that he has satisfied that requirement. He noted that in addition to the certified mailing, an additional notice of the March 4 hearing was mailed to all abutters within 300 feet. Two people did come to the March 4 hearing to make public comment, but no one has contacted Mr. Leone in response to either mailing. He asked the Board to proceed to vote on Article 31 tonight.

Ms. Korman-Houston said that if Town Counsel has said that the notification requirements have been satisfied, she is comfortable moving the article forward.

The Chair asked for a motion to recommend Favorable Action on Article 31. Mr. Lau so moved, Mr. Revilak seconded, and the Board voted 4-1 in favor, with Mr. Benson opposed.

## **ARTICLE 32: TRAFFIC VISIBILITY.**

Article 32 would allow an exception to the restriction on fences above three feet on corner lots in Section 5.3.12.(A).

Mr. Benson discussed Article 32 with Mr. Ciampa via email, and that email exchange is included with tonight's agenda. He asked Mr. Ciampa what the correct line to measure from is; at the March 4 hearing, the petitioner Caitlin Monaghan put the line at the edge of her property, but a commentor said that the line should be at the curb, considerably changing the size of the area on which taller fences are not allowed. Mr. Ciampa said that the petitioner was correct. Mr. Benson also asked Mr. Ciampa what he thought of the proposal. Mr. Ciampa expressed concern that something that starts out as transparent may not remain so over time as vegetation grows or clear substances fog over. He requested that if the Board supports this Article, the wording be changed to include the phrase "when installed and in the future." Mr. Benson shared that with Ms. Monaghan, and she modified the language of the amendment to include that phrase. She also changed her original proposal to apply only to fences, not vegetation or other structures, limited to five feet, and transparent enough not to hinder visibility. Mr. Benson believes that Ms. Monaghan's changes meet Mr. Ciampa's concerns.

Mr. Revilak noted that Section 5.3.12.(B) already has an exception with a performance standard relating to visibility, so it makes sense to include such an exception in 5.3.12.(A) as well, though he appreciated the concerns raised by Mr. Ciampa. He also noted that Mr. Ciampa had proposed language that went further than the single phrase Mr. Benson cited: "unless it can be shown that the building, structure, or vegetation will not now or in the future restrict visibility in such a way as to hinder the safe transit of a vehicle through the intersection." Mr. Revilak would prefer that language to the revised language proposed by Ms. Monaghan.

Ms. Korman-Houston said that she is particularly concerned about the issue of vegetation. She was comfortable with Article 32 after it was changed to allow only fences, not vegetation. If the language is changed to Mr. Ciampa's wording, she would prefer to remove the option of vegetation. However, she is very concerned about the fact that Mr. Ciampa does not support any change to this section of the bylaw, and she is uncertain whether she can continue to support it.

The Chair said that she is also concerned about the fact that Mr. Ciampa does not support this article. The Inspectional Services Department is responsible for enforcing this provision, so it's a problem that ISD's Director does not support it.

Mr. Lau said that he does not like the phrase "transparent enough"; he thinks that the bylaw should include a specific percentage of transparency so that it's not subjective.

The Chair noted that this article only allows an additional two feet, because the current bylaw already allows a fence or vegetation up to three feet, and this article would allow fences up to five feet. Given the concerns raised by Mr. Ciampa, is the two-foot difference enough to warrant changing the bylaw? Mr. Benson replied that in Ms. Monaghan's initial presentation, she noted that a day care is required to have a fence at least four feet high, and a swimming pool is required to have a fence at least five feet high.

Mr. Benson does not think that the article should specify a particular percentage of transparency, but should allow ISD to determine if a fence would restrict visibility and compromise safety. He also does not want vegetation to be allowed. He suggested the wording: "except for fencing up to five feet in height that will not now or in the future restrict visibility in such a way as to not hinder the safe passage of a vehicle through the intersection." Mr. Lau still feels that this is too subjective. Mr. Benson said that the Board does not know what percentage visibility is adequate for safety. Mr. Lau said that they should find out. The Chair said that if the Board is going to recommend a particular percentage of visibility, they should do so in consultation with the Transportation Planner or others who know more about this issue. The Board is not able to determine the necessary percentage of visibility for safety at this meeting. Mr. Benson said that he thinks that ISD can handle determining whether a fence meets the requirements for safety, so the article does not need to specify a percentage of visibility.

The Chair asked Ms. Monaghan if she would object to the language Mr. Benson proposed. She said that she did not object, and she would be willing to add language specifying a requirement for 90% transparency; that might be a higher bar than is strictly necessary, but she believes that 90 % transparency would be adequate for safety. The

Chair said that she is uncomfortable adding any percentage without getting more information. She does not want to promote chain link fences, so she does not want to require a higher percentage than necessary.

Mr. Lau said that he would like more time to learn more about it. The Chair said that the Board needs to vote tonight. She also noted that because it is an article brought forward by a petitioner and not the Board, it is not the Board's responsibility to research the issues involved. But the Board does need to determine whether the proposal currently before them is good for the Town or not. Mr. Lau said that he would not support it without a percentage, and he would want a percentage determined by someone with better knowledge of what is required for safety.

Ms. Korman-Houston said that she cannot support the article without support from Mr. Ciampa. The Chair agreed, given that ISD would be responsible for enforcing it.

The Chair asked for a motion to recommend No Action on Article 32. Ms. Korman-Houston so moved, Mr. Lau seconded, and the Board voted 3-2 in favor, with Mr. Benson and Mr. Revilak opposed.

#### **ARTICLE 33: REAR YARD SETBACKS IN BUSINESS DISTRICTS.**

Mr. Lau said that he supports Article 33. It makes sense that when a building's height increases, that be taken into account with the setbacks.

Ms. Korman-Houston agreed.

Mr. Benson agreed and noted that this article would leave the placement of the fourth or higher stories where it would have been without this article; it is only the lower three floors that would be allowed to have a smaller setback. As a result, it would not increase shadows.

Mr. Benson asked that DPCD staff correct the way the article is written. The additions in the article should be underlined only, not also bolded, and the section being added should come after the section being crossed out.

Mr. Revilak is also supportive because it has the potential to allow more ground floor commercial space in mixed use developments and may make such developments more economically feasible. He wishes that the petitioner had suggested this in the fall, so that it could have been written into the Board's original article changing rear yard setbacks in business districts.

The Chair agreed that this article would not be more detrimental than the currently existing setback requirements, and it will allow an increase in ground floor commercial space.

The Chair asked for a motion to recommend Favorable Action on Article 33, with the correction of the scrivener's errors requested by Mr. Benson. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously as amended.

#### **ARTICLE 34: RESIDENTIAL USES.**

The Chair noted that the Board members all received correspondence from the proponent John Paul Lewicke: "We would like to ask the Redevelopment Board to recommend No Action on Article 34. We are planning to do some thorough public outreach later this year and file a new Warrant Article for the 2025 Town Meeting. We very much appreciate the thoughtful comments and suggestions and are confident that taking the time to get all the details right and receive more feedback will make this an even stronger proposal."

Ms. Korman-Houston said that she appreciates that the proponents brought this article forward. It addresses some important issues facing Arlington. She thinks that it was wise for them to step back and look for more public feedback, but she looks forward to working with them in the future.

Mr. Benson agreed.

Mr. Revilak also wanted to thank the petitioners for bringing this article forward and working with the Board. He feels that it was a productive conversation and looks forward to seeing how this article takes shape over time.

The Chair said that she appreciates the petitioners' recognition of the importance of public outreach and a thorough public process in bringing this article forward in the future.

The Chair asked for a motion to recommend No Action on Article 34. Mr. Lau so moved, Mr. Benson seconded, and the Board voted unanimously.

The Chair asked for a motion to close the public hearing for the Warrant Articles for 2024 Annual Town Meeting. Mr. Lau so moved, Mr. Benson seconded, and the Board voted and approved unanimously.

The Chair asked for a motion to adjourn. Mr. Lau so moved, and Mr. Benson seconded. The Board voted and approved unanimously.

**Meeting Adjourned at 8:56 pm.**

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## Town of Arlington, Massachusetts

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### Public Hearing: Redevelopment Board Rules and Regulations

#### Summary:

7:35 pm      The Board will deliberate and vote on proposed changes to Rules 18 and 20 of the Board's Rules and Regulations.

#### ATTACHMENTS:

Type	File Name	Description
<input checked="" type="checkbox"/> Reference Material	ARB_Rules_Regulations_proposed_amendments_- 04012024.pdf	ARB Rules & Regulations proposed amendments - 04012024

# **Arlington Redevelopment Board**

## **Rules and Regulations**



**Proposed Amendments**  
**April 1, 2024**

**AMEND RULE 18 as follows:**

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**RULE 18: SIGN APPLICATIONS AND REVIEW PROCEDURES FOR ADMINISTRATIVE APPROVAL**

~~Sign modifications on properties subject to Environmental Design Review (EDR) may be considered for administrative approval by the Director of Planning and Community Development provided the applicant demonstrates that the following criteria are met:~~

- ~~1. The ARB previously approved a sign through the Environmental Design Review Special Permit process or a prior sign permit was approved by Inspectional Services;~~
- ~~2. The sign(s) meet zoning requirements;~~
- ~~3. There are no known zoning or general bylaw violations outstanding on the property;~~
- ~~4. All of the following conditions are met:
  - a. The same number or fewer signs are proposed;
  - b. The same size or smaller sign(s) or sign area is proposed; and
  - c. The sign(s) proposed is in the same locations as the existing sign(s);~~
- ~~5. The sign(s) illumination is the same illumination as for existing sign(s);~~
- ~~6. The new sign(s) are not internally illuminated;~~
- ~~7. The sign(s) are legible from the public way in the Director or their designees' opinion; and~~
- ~~8. There are not any sign(s) proposed for storefront windows.~~

~~If sign proposals do not meet all of the criteria above, then the applicant must submit a full Environmental Design Review application for the Redevelopment Board's review and approval. The Department of Planning and Community Development is not required to provide administrative approval and may at any time refer the application to the Board.~~

New signs and sign modifications that require a permanent sign permit as set forth in Section 6.2 of the Zoning Bylaw may be considered for administrative approval by the Director of Planning and Community Development provided the applicant demonstrates to the satisfaction of the Director that the following two criteria are met:

1. The sign(s) meet all zoning requirements, including but not limited to complying with all the applicable requirements for the signs as set forth in Section 6.2 of the Zoning Bylaw; and
2. There are no known zoning or general bylaw violations outstanding on the property.

If a sign proposal does not meet the two above criteria, the Director of Planning and Community Development may not approve the sign; instead, the applicant must submit a full application for the Redevelopment Board's review and approval.

The Department of Planning and Community Development is not required to provide administrative approval and may at any time refer a sign application to the Redevelopment Board. It shall refer the application to the Redevelopment Board if in the opinion of the Director of Planning and Community Development the sign is so unique, in such a prominent or important location, or would have such an effect on its immediate surroundings that review by the Redevelopment Board would be warranted.

Procedure: Submit a \$500 fee payable to the Town of Arlington and one copy of the following documents to the Department of Planning and Community Development

1. Photos of existing signs, if any, maintained on the premises;
2. Drawing of building facade indicating location of the proposed sign(s);
3. Drawing to scale of proposed sign(s) with dimensions and construction specifications, materials, mounting method, lighting, and wiring;
4. Cut sheet for any lighting; and
5. Photo simulation, perspectives, renderings, or other representations sufficient to show the nature of the proposed sign(s) and its effect on the immediate surroundings.

**ADD RULE 20 as follows:**

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## **RULE 20: SITE PLAN REVIEW**

### A. Site Plan Review Overview

Site Plan Review is a process established by the Town of Arlington Zoning Bylaw (Zoning Bylaw) by which the Arlington Redevelopment Board (Redevelopment Board) reviews and potentially imposes conditions on an As of Right Development that may include, but not be limited to, matters such as vehicle access and circulation on a site, architectural design of a building, and screening of adjacent properties, prior to the issuance of a building permit. It is an opportunity to make sure the development will comply with all requirements of the Zoning Bylaw, to understand its impacts, and for the Redevelopment Board to impose reasonable conditions that it deems necessary to ensure the health, safety, and general welfare of the community.

The Redevelopment Board will review a Site Plan in accordance with the Zoning Bylaw.

More information on Site Plan Review in the Zoning Bylaw, including the definitions of "As of Right Development" and "Site Plan Review" in Section 2 of the Zoning Bylaw, as well as the section(s) of the Zoning Bylaw requiring Site Plan Review for the project being proposed.

### B. Site Plan Review Pre-Application Meeting

For projects requiring Site Plan Review, a Pre-Application Meeting with staff of the Arlington Department of Planning and Community Development (DPCD) is mandatory for all projects of more than four units and optional (but recommended) for all projects of four or fewer units. The Pre-Application Meeting shall be scheduled through DPCD.

The purposes of the Pre-Application Meeting are to familiarize reviewing staff with the basics of the project, to provide feedback and general recommendations before formal filing of an application for Site Plan Review, and to assist the Applicant in understanding expectations, anticipating areas of concern, and minimizing unnecessary expenses. The Pre-Application Meeting may also help ensure the application will be complete and include all necessary materials and information. Depending on the project scope, town staff participating in the meeting may include representatives of various departments within the town.

At the Pre-Application Meeting, the Applicant will be expected to discuss at least the following aspects of its proposed development:

1. The parcel(s) and the address of the site.
2. The existing conditions on the site and any easements that exist:
  - a. What is on the property now? Is it vacant or already developed? Are there existing buildings? If so, will they be redeveloped or replaced?
  - b. Are there wetlands on or near the site?
  - c. Is the land flat? Sloped?
3. What is around the site? What are the surrounding streets? Where are the nearby intersections? What is located on abutting land?

4. What zoning district(s) is the site located within?
5. What does the Applicant propose to build on the site, where will the buildings be located, and what will the proposed buildings look like? How will it compare to Arlington's design guidelines, if applicable?
6. How many residential units will be provided? What will be their location and sizes?
7. Will there be affordable housing units? If so, how many units will be affordable, where will those units be located, and what will be their sizes?
8. Will there be any commercial units? If so, what will be their location and sizes?
9. What are the dimensional and density requirements of the district? Will the project comply?
10. How many parking spaces will be required and how many does the Applicant propose? Where will parking spaces be located? How will traffic move in and out of the site?
11. Where will bicycle parking, if any is required, be located?
12. Where will pedestrians walk on the site?
13. What stormwater management is proposed for the site?
14. Where does the Applicant plan to put signs if any? Outdoor lighting?
15. What does the Applicant plan to provide for landscaping?

If a project has an affordable housing component, DPCD may ask the Applicant to appear before the Trustees of the Arlington Affordable Housing Trust (AHT) and obtain a letter from the AHT stating that the affordable housing component of the plan as proposed is satisfactory under the Zoning Bylaw and state requirements, or DPCD may provide such a letter.

#### C. Site Plan Review Application

A completed Site Plan Review Application, available from DPCD, is required. The application will require information discussed at the pre-application meeting and additional information to allow the proposal to be reviewed by the Redevelopment Board.

At a minimum, the application shall comply with the requirements of Rule 14 of these Rules and Regulations. If the project has an affordable housing component, the application must include a letter from AHT or DPCD stating that the affordable housing component of the plan is satisfactory.

The fee to accompany the application is set forth in Rule 12 of these Rules and Regulations.

#### D. Site Plan Review Timetable and Review Process

Site Plan Reviews before the Redevelopment Board are subject to the following timelines.

Within 10 days of receipt of an application, copies of the application shall be transmitted by DPCD to Inspectional Services. Following staff evaluation of the proposal, DPCD may determine that any of the following Boards, Departments, or Commissions need to be notified as part of project review: Board of Health; Conservation Commission; Public Works; Engineering; Historical Commission; Historic Districts Commission; Fire Department; Police Department; and Zoning Board of Appeals. All other boards, commissions, or departments will be given 35 days to respond. Failure to respond will be deemed to be lack of opposition.

The notification requirements of Rule 11 of these Rules and Regulations shall be completed before the Redevelopment Board initiates Site Plan Review on an application.

After such notification:

1. The Redevelopment Board shall hold a public hearing on the application. The hearing must start within 65 days of an application being filed.
2. Once the hearing has commenced, it may be continued. If continued beyond 90 days after the first day of hearings, the applicant must agree to continue the hearing.
3. Final action must be taken by the Redevelopment Board within 90 days of the hearing's closure. A majority vote of the five members of the Redevelopment Board is required to approve or disapprove the Site Plan, including any conditions placed on the approval. Final action shall include one of the following:
  - Approval as filed. Approval based on a determination that the application complies with the Zoning Bylaw and these Rules and Regulations.
  - Approval with conditions. Approval of the application subject to any reasonable conditions, modifications, and restrictions the Redevelopment Board may deem necessary to ensure the health, safety, and general welfare of the community and for compliance with the Zoning Bylaw and these Rules and Regulations.
  - Disapproval. A disapproval of the application for noncompliance with the Zoning Bylaw, or determination that the Site Plan, although proper in form, is so intrusive on the interests of the public in one or more aspects regulated by the Zoning Bylaw, that no reasonable terms or conditions can be devised to adequately protect the interests of the public. An application may also be disapproved if it was incomplete or inaccurate and was not thereafter completed or corrected within a reasonable time after the Redevelopment Board requested the applicant to do so.
4. Within 14 days of the Board's final action, the Board must file a record of its Decision in the Town Clerk's Office.
5. Site Plan approval or disapproval, or any extension, modification or renewal thereof shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time. Proof of recording with the Middlesex South Registry of Deeds or Registry District of the Land Court, as applicable, shall be presented to the Building Inspector.
6. If a decision is not reached within 90 days after closure of the hearing, the applicant may notify the Town Clerk and abutters within 14 days after the 90th day that it is seeking approval of its application for failure of the Redevelopment Board to act on its application within 90 days, or any extended time period beyond the 90 days, pursuant to M.G.L. c.40A, § 9, and comply with the requirements set forth therein.

E. Appeals

There is no administrative appeal of the decision of the Redevelopment Board on Site Plan Review. Appeal is to court.

F. Lapse and Extension of an Approval

An approval granted under Site Plan Review shall lapse after three years from its issuance if substantial use or construction has not commenced within the three-year period, which shall not include the time required to pursue or await the determination of an appeal of the approval. Upon written application by the grantee, the Redevelopment Board in its discretion may extend the rights to exercise the site plan review approval for a period not to exceed two years for good cause shown. An application for such an extension shall be filed with DPCD prior to the expiration of the three-year period and with enough time to provide proper notice of the requested extension at a regularly scheduled Redevelopment Board meeting. The rights to an expired site plan review approval may only be reestablished after the filing of a new application for review and the holding of a new public hearing, subject to the discretion of the Redevelopment Board.



## Town of Arlington, Massachusetts

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### Board Report to Town Meeting

#### Summary:

8:15 pm      The Board will discuss and vote on the Redevelopment Board Report to 2024 Annual Town Meeting.

#### ATTACHMENTS:

Type	File Name	Description
□ Reference Material	DRAFT_ATM_2024_ARB_Report_-_03282024.pdf	DRAFT ATM 2024 ARB Report - 03282024



## **Town of Arlington**

### **ARLINGTON REDEVELOPMENT BOARD Report to 2024 Annual Town Meeting**

Rachel Zsembery, Chair

Kin Lau, Vice Chair

Eugene Benson

Shaina Korman-Houston

Stephen Revilak

Claire V. Ricker

Secretary Ex-Officio

Director of the Department of Planning and Community Development

Voted as amended April 1, 2024

## **Introduction and Overview**

The Arlington Redevelopment Board (ARB) has statutory authority under M.G.L. c. 40A as the Town's planning board (Section 2 of Section 17 of the Town Manager Act) and M.G.L. c. 41 § 81 as the Redevelopment Authority. The ARB was created by a Town Meeting-adopted home rule petition, followed by a State Legislature act to form the ARB in 1971. The Department of Planning and Community Development was created in 1969. The authority and role of the ARB is included in Article 17 of the Town Manager Act. As a planning board, the ARB is charged with developing Arlington's Master Plan; proposing bylaws, regulations, and rules to implement the Master Plan; and applying those bylaws, regulations, and rules as well as conducting site plan review where applicable. The Board serves as the Town's special permit granting authority for projects which require an Environmental Design Review (EDR) as identified in the Zoning Bylaw. The ARB is also the Town's Urban Renewal Authority under M.G.L. Chapter 121B; with Town Meeting approval, the Board may hold property to improve and rehabilitate them to meet community development goals.

The members of the ARB are as follows:

Rachael Zsembery, Chair (term through 6/30/2026)

Kin Lau, Vice Chair (term through 1/31/2027)

Eugene Benson (term through 1/31/2026)

Shaina Korman-Houston (term through 1/31/2026)

Stephen Revilak (Gubernatorial Designee, term through 9/22/2028)

Claire Ricker, AICP, Director of the Department of Planning and Community Development, serves as Secretary Ex-Officio to the ARB.

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In November 2023, Shaina Korman-Houston was appointed to a vacant seat on the Redevelopment Board by the Select Board.

## **Zoning Bylaw Articles Overview**

The formal ARB review process for 2024 Annual Town Meeting began in January with the close of the Warrant and will culminate after Town Meeting with a submission by the Town Clerk of any approved zoning amendments to the Attorney General.

When any warrant article proposes to amend the “Town of Arlington Zoning Bylaw,” the ARB is required to issue a report with recommendations to Town Meeting. Appearing below are articles that propose to amend the Zoning Bylaw. This report includes a brief discussion of the intent of each proposed amendment followed by a recommended vote of the ARB. The ARB’s vote constitutes its recommendation to Town Meeting. The recommendations of the ARB, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting. An ARB vote of “No Action” means that Town Meeting will be asked to vote that no action be taken on the proposed warrant article.

Changes to the Zoning Bylaw text are shown beneath the recommended votes. Additions to the original Zoning Bylaw text appear as underlined text, while any deletions to the original Zoning Bylaw text appear as ~~strike through~~ text.

The ARB advertisement for the public hearings on the Warrant Articles proposed to amend the Zoning Bylaw appeared in *The Advocate and Star* as required on February 8, February 15, and February 22. In accordance with the provisions of the Arlington Zoning Bylaw and Massachusetts General Laws Chapter 40A, the ARB held public hearings and heard public comments on the proposed amendments on Monday, February 26, Monday, March 4, and Monday, March 18, 2024. The ARB voted on recommended bylaw language at their meeting on Monday, March 18, 2024. At their meeting on April 1, 2024, the ARB voted X-X to submit this report to Town Meeting.

## TABLE OF CONTENTS

Article	Zoning Bylaw Amendment	Page
Article 25	<a href="#"><u>Building Definitions</u></a>	<a href="#"><u>3</u></a>
Article 26	<a href="#"><u>Administrative Clarification</u></a>	<a href="#"><u>4</u></a>
Article 27	<a href="#"><u>Administrative Correction</u></a>	<a href="#"><u>5</u></a>
Article 28	<a href="#"><u>Delete Inland Wetland Overlay District</u></a>	<a href="#"><u>7</u></a>
Article 29	<a href="#"><u>Reduced Height Buffer</u></a>	<a href="#"><u>10</u></a>
Article 30	<a href="#"><u>Shaded Parking Lots</u></a>	<a href="#"><u>11</u></a>
Article 31	<a href="#"><u>Add 5-7 Winter Street to the MBTA Neighborhood District</u></a>	<a href="#"><u>13</u></a>
Article 32	<a href="#"><u>Traffic Visibility</u></a>	<a href="#"><u>15</u></a>
Article 33	<a href="#"><u>Rear Yard Setbacks in Business Districts</u></a>	<a href="#"><u>16</u></a>
Article 34	<a href="#"><u>Residential Uses</u></a>	<a href="#"><u>17</u></a>

## SUMMARY OF RECOMMENDED VOTES OF THE REDEVELOPMENT BOARD

Article	Date of ARB Hearing (with link to ACMi Recording)	Recommendation to Town Meeting
Article 25	<a href="#">February 26, 2024</a>	Favorable Action (5-0)
Article 26	<a href="#">February 26, 2024</a>	Favorable Action (5-0)
Article 27	<a href="#">February 26, 2024</a>	Favorable Action (5-0)
Article 28	<a href="#">February 26, 2024</a>	Favorable Action (5-0)
Article 29	<a href="#">February 26, 2024</a>	Favorable Action (5-0)
Article 30	<a href="#">March 4, 2024</a>	Favorable Action (3-2)
Article 31	<a href="#">March 4, 2024</a> and <a href="#">March 18, 2024</a>	Favorable Action (4-1)
Article 32	<a href="#">March 4, 2024</a>	No Action (3-2)
Article 33	<a href="#">March 4, 2024</a>	Favorable Action (5-0)
Article 34	<a href="#">March 4, 2024</a>	No Action (5-0)

# ARTICLE 25:

## BUILDING DEFINITIONS

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### **ARTICLE 25**

### **ZONING BYLAW AMENDMENT / BUILDING DEFINITIONS**

To see if the Town will vote to amend Section 2: Definitions, in the Zoning Bylaw to amend the definitions of Building, Attached, and Building, Detached, to clear up an ambiguity between those two definitions; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

### **DISCUSSION**

Article 25 intends to clarify the Zoning Bylaw by refining the definition of "Attached" and "Detached" buildings. The definitions of "Attached" and "Detached" buildings in the current Zoning Bylaw are not internally consistent, so some buildings do not clearly fall into either category. Moreover, the definition of an "Attached" building only includes sharing a common wall with another building while remaining silent on buildings that share a roof or other element. The Zoning Board of Appeals (ZBA) and the Inspectional Services Department (ISD), in addition to the Redevelopment Board, support this clarification. The revised definitions were written in consultation with the ZBA and ISD and are consistent with the manner in which ISD has been interpreting the Zoning Bylaw. This amendment was originally proposed by the Zoning Board of Appeals.

### **VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:**

### **DRAFT AMENDMENT**

**Amend SECTION 2, Definitions, as follows:**

Building, Attached: A building having any portion of one or more walls or roofs in common with another adjoining building or buildings or otherwise connected by a roof to another building or buildings.

Building, Detached: A building with no physical connection to another building. that does not meet the definition of Building, Attached.

# ARTICLE 26:

## ADMINISTRATIVE CLARIFICATION

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### **ARTICLE 26**

### **ZONING BYLAW AMENDMENT / ADMINISTRATIVE CLARIFICATION**

To see if the Town will vote to amend Section 5.4.2.A. R District Yard and Open Space Requirements in the Zoning Bylaw to reference an exception found elsewhere in the Zoning Bylaw; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

### **DISCUSSION**

Article 26 is an administrative clarification to the Zoning Bylaw which updates the references to exceptions to district yard and open space requirements made in Section 5.4.2.A. This amends Section 5.4.2.A R District Yard and Open Space Requirements to add a reference to 5.9.2.B.(1).e, an exception that already exists elsewhere in the bylaw. Adding the reference to this section serves to simplify and clarify the interpretation and application of the bylaw. This amendment was originally proposed by the Zoning Board of Appeals.

### **VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:**

### **DRAFT AMENDMENT**

**Amend SECTION 5.4.2.A. R District Yard and Open Space Requirements, as follows:**

R District Yard and Open Space Requirements (see 5.4.2(B)B and 5.9.2.B.(1).e for exceptions).

# ARTICLE 27:

## ADMINISTRATIVE CORRECTION

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### **ARTICLE 27**

### **ZONING BYLAW AMENDMENT / ADMINISTRATIVE CORRECTION**

To see if the Town will vote to amend Section 5.9.2. Accessory Dwelling Units for clarity to change how subsections are numbered and to remove a subsection that is outdated; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

### **DISCUSSION**

Article 27 is an administrative correction to the Zoning Bylaw that will change the listing of conditions in Section 5.9.2.B.(1) from bullet points to letters. The Zoning Board of Appeals originally proposed the change from a bulleted to an enumerated list in order to cite the specific provisions more simply and clearly in their decisions. Additionally, the article would delete a subsection from the bylaw that is irrelevant as the dates referenced in the subsection have passed.

The Zoning Bylaw has allowed Accessory Dwelling Units (ADUs) for several years. This article would not make any changes to the conditions under which ADUs are allowed or any other rules for ADUs; it would merely make it simpler to refer to individual provisions in Section 5.9.2.

### **VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:**

### **DRAFT AMENDMENT**

**Amend Section 5.9.2. Accessory Dwelling Units, Subsection B. (1), to replace bullets with letters as follows:**

B. Requirements

- (1) In any Residential District or Business District, an accessory dwelling unit is permitted as an accessory use to any single-family dwelling, two-family dwelling, or duplex dwelling, if all of the following conditions are met:
  - a) An accessory dwelling unit shall be not larger in floor area than one-half the floor area of the principal dwelling or 900 square feet, whichever is smaller. For the avoidance of doubt, where an accessory dwelling unit is created by converting a portion of an existing principal dwelling to an accessory dwelling unit, the floor area of the resulting accessory dwelling unit shall be measured relative to the floor area of the resulting principal dwelling (as affected by or in connection with the conversion).

- b) Any alteration causing an expansion of or addition to a building in connection with an accessory dwelling unit shall be subject to the provisions of Section 5.4.2.B(6) if and to extent section 5.4.2.B(6) is otherwise applicable to such alteration or addition.
- c) An accessory dwelling unit shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling, sufficient to meet the requirements of the State Building Code for safe egress.
- d) No more than one (1) accessory dwelling unit is allowed per principal dwelling unit.
- e) An accessory dwelling unit may be located in (i) the same building as the principal dwelling unit or as an expansion to such building; (ii) a building that is attached to the principal dwelling unit; or (iii) an accessory building, which accessory building shall not constitute a principal or main building by the incorporation of the accessory dwelling unit, provided that if such accessory building is located within 6 feet of a lot line then such accessory dwelling unit shall be allowed only if the Board of Appeals, acting pursuant to Section 3.3, grants a special permit upon its finding that the creation of such accessory dwelling unit is not substantially more detrimental to the neighborhood than the use of such accessory building as a private garage or other allowed use.
- f) An accessory dwelling unit shall not be used as a short-term rental, in accordance with Title V, Article 18, Section 3 of the By-Laws of the Town of Arlington.
- g) An accessory dwelling unit shall be subject to all applicable requirements of the State Building Code and State Fire Code (including any such requirements, if and as applicable, which prohibit openings, including windows, in exterior walls of dwellings located within a certain distance from the property line).

**Amend Section 5.9.2, Accessory Dwelling Units, Subsection C., to delete subsection (3) and to renumber subsection (4) as subsection (3) as follows:**

C. Administration

...

- (3) ~~This Section 5.9.2 shall be effective as of the date on which it is enacted at Town Meeting in accordance with applicable law, except for clause (iii) of Section 5.9.2.B(1), fifth bullet, which clause (iii) shall be effective as of the date occurring six (6) months after the date on which this Section 5.9.2 is enacted at Town Meeting.~~
- (4) (3) In the event of any conflict or inconsistency between the provisions of this Section 5.9.2 or Section 8.1.3.E, on the one hand, and any other provisions of this Bylaw, the provisions of this Section 5.9.2 and Section 8.1.3.E shall govern and control.

# ARTICLE 28:

## DELETE INLAND WETLAND OVERLAY DISTRICT

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### **ARTICLE 28**

### **ZONING BYLAW AMENDMENT / DELETE INLAND WETLAND OVERLAY DISTRICT**

To see if the Town will vote to delete Section 5.8, Inland Wetland Overlay District, from the Zoning Bylaw and adjust the numbering of subsequent sections; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

#### **DISCUSSION**

Article 28 would eliminate the Inland Wetland Overlay District (IWD) from the Zoning Bylaw. It does not reduce protection for wetlands because wetland protection is administered by the Conservation Commission under state and town laws and regulations.

Like many towns in Massachusetts, Arlington has an Inland Wetland District that pre-dates the adoption of the state Wetlands Protection Act, which is implemented by the Arlington Conservation Commission. Some communities have found that administering a zoned wetlands district creates conflicts or inconsistencies with the Conservation Commission's work under G.L. c. 131, § 40. Through state and Town laws and regulations, the Conservation Commission retains robust authority to protect wetlands, and it is the most appropriate body to do so. The IWD is therefore redundant and creates unnecessary complexity and potential for conflicting regulations. Indeed, inclusion of the IWD in the Arlington Zoning Bylaw has created confusion about the appropriate Town body to adjudicate issues related to wetlands and, while well intentioned, the IWD is no longer an effective tool for wetland protection in Arlington. The Conservation Commission has jurisdiction over wetlands, but the inclusion of this overlay district in the Zoning Bylaw gives the Zoning Board of Appeals overlapping and superfluous jurisdiction. Furthermore, removing the IWD from the Zoning Bylaw does not change the Conservation Commission's authority or weaken environmental protections. This article is supported by the Conservation Commission, the Zoning Board of Appeals, the Inspectional Services Department, and the Department of Planning and Community Development, in addition to the Redevelopment Board.

#### **VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:**

#### **DRAFT AMENDMENT**

**Delete SECTION 5.8, Inland Wetland District, as follows:**

**5.8      INLAND WETLAND DISTRICT**

**5.8.1.    Purpose**

The purpose of Section 5.8 is to:

- A. ~~Preserve and protect the streams, water bodies, and other watercourses, including wetlands, in the Town of Arlington.~~
- B. ~~Protect the health and safety of persons and property against the hazards of flooding and contamination.~~
- C. ~~Preserve and maintain the groundwater table for potential water supply purposes.~~
- D. ~~Protect the community against the detrimental use and development of lands adjoining such watercourses.~~
- E. ~~Conserve the watershed areas in Arlington for the health, safety, and welfare of the public.~~

#### **5.8.2. Definition**

The Inland Wetland District is superimposed over any other district established by this Bylaw and includes the following areas:

- A. All lands within the elevations shown on the Wetland and Floodplain Overlay Map of the Zoning Map and designated as wetlands as defined by the Massachusetts Wetlands Protection Act, G.L. c.131 §40, and the implementing regulations, 310 CMR 10.00, as well as the Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8), and the Wetland Protection Regulations (Regulations) promulgated thereunder. These include lakes, ponds and swamps.
- B. All land area along all perennial rivers, brooks, and streams as defined by the Massachusetts Wetlands Protection Act, G.L. c.131 §40, and the implementing regulations, 310 CMR 10.00, as well as the Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8), and the Wetland Protection Regulations (Regulations) promulgated thereunder for a horizontal distance of 200 feet from the center line thereof are included in the Inland Wetland District.
- C. All lands designated on the zoning map as having a shallow depth to water table. These lands are the poorly and very poorly drained mineral soils, and very poorly drained soils formed in organic deposits. Poorly drained mineral soils have a water table at or near the surface for at least 7 to 9 months during the year. The water table remains at or close to the surface of very poorly drained mineral and organic soils throughout most of the year.

#### **5.8.3. Applicability**

Any proposed use to be located within the limits of the Inland Wetland District as determined by the Building Inspector under Section 3.1 of this Bylaw shall be governed by all regulations of this Section as well as all other applicable provisions of this Bylaw.

#### **5.8.4. Permitted Uses**

Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:

- A. ~~No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 8.1.8 of this Bylaw.~~

- B. ~~Dumping, filling, excavating, or transferring of any earth material within the district is prohibited unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw became effective.~~
- C. ~~No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued.~~

#### **5.8.5. Procedures**

~~Applications for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority and G.L. c. 40A, as outlined in Section 3. Such conditions shall include, where applicable, approval by the Board of Appeals, Arlington Redevelopment Board, Conservation Commission, the Massachusetts Department of Environmental Protection, and/or the Massachusetts Department of Transportation under Chapter 131 of the General Laws, acts relating to the protection of the inland wetlands of the Commonwealth.~~

#### **5.8.6. Development Conditions**

- A. ~~For the development of land within the Inland Wetland District, the following conditions shall apply:~~
  - (1) ~~A minimum of six test borings to a minimum depth of eight (8) feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.~~
  - (2) ~~The floor level of areas to be occupied by human beings as living or work space shall be four (4) feet above the seasonal high water table and not subject to periodic flooding.~~
  - (3) ~~If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.~~
  - (4) ~~Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.~~
- B. ~~The developer shall show that the proposed development will not endanger health and safety, including safety of gas, electricity, fuel, and other utilities from breaking, leaking, short-circuiting, grounding, igniting or electrocuting; shall not obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; adversely affect groundwater resources or increase storm water run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.~~

Renumber subsequent Sections as appropriate.

# ARTICLE 29:

## REDUCED HEIGHT BUFFER

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### ARTICLE 29

### ZONING BYLAW AMENDMENT / REDUCED HEIGHT BUFFER

To see if the Town will vote to amend Section 5.3.19. Reduced Height Buffer Area in the Zoning Bylaw to alter the height buffer requirements; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

#### DISCUSSION

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Article 29 would reduce the height buffer distances required in the uncommon situation in which two different heights are specified for the same zoning district. The current height buffer distances were set in 1975, when taller buildings were allowed by the Zoning Bylaw. Since that time, the maximum heights in the R7, PUD, and B5 districts have been reduced by 32%, 45%, and 60%, respectively, but the corresponding buffer distances have not been similarly reduced. This article would reduce the applicable buffer distances by 50%. Given that the overall height maximums have been reduced, the required height buffer distances should likewise be reduced. Although the Redevelopment Board retains the authority to allow the higher height limit if they determine that it would not have a detrimental impact based on the criteria in Sections 3.3 and 3.4, this article would add greater clarity as to the size of the minimum buffer.

#### VOTE AND RECOMMENDATION TO TOWN MEETING

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**VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:**

#### DRAFT AMENDMENT

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**Amend SECTION 5.3.19, Reduced Height Buffer Area, Subsection A, as follows:**

- A. When two different maximum height limits are specified for the same zoning district in any Table of Dimensional and Density Regulations in this Section 5, the lower limit shall apply to any lot or part of a lot located in a height buffer area unless the Board of Appeals, or Arlington Redevelopment Board, as applicable, finds that the height given as the upper limit would not be detrimental to it is determined as a specific finding of a special permit that the properties in the adjacent R0, R1, R2, or OS districts, would not be adversely affected due to existing use or topographic condition due to site-specific factors and criteria established in Section 3.3.3 and Section 3.3.4. A height buffer area is defined as a lot or part of a lot which is located at a lesser distance from any land, not within a public way, in an R0, R1, R2 or OS district than the following:

Land in R0, R1, R2, OS is located	Lower height shall apply
Between northwest and northeast	Within <u>200</u> <u>100</u> feet
Easterly, between northeast and southeast, or westerly between northwest and southwest	Within <u>150</u> <u>75</u> feet
Southerly, between southeast and southwest	Within <u>100</u> <u>50</u> feet

# ARTICLE 30:

## SHADED PARKING LOTS

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### **ARTICLE 30**

### **ZONING BYLAW AMENDMENT / SHADED PARKING LOTS**

To see if the Town will vote to amend Section 6.1.11.D of the Zoning Bylaw to require that trees or other shade be provided in parking lots with more than 25 spaces; or take any action related thereto.

(Inserted at the request of Susan Stamps and 10 registered voters)

### **DISCUSSION**

Article 30 would require newly developed and newly expanded parking lots of more than 25 spaces to include trees and/or solar panels in order to provide shade to portions of the parking lot. This would mitigate heat island effects and increase the tree canopy in Arlington, goals expressed in multiple Town plans and supported by the Redevelopment Board.

Currently, the Zoning Bylaw requires that parking lots with more than 25 spaces be at least 8% landscaped. The Zoning Bylaw also requires that measures be taken for parking lots in the Industrial Districts to reduce the heat given off by the parking surface, which may include trees and solar arrays. Some Board members discussed that it would make sense for larger parking lots in other districts to meet the same requirements, and that it would not be more difficult for developers to include trees within the 8% landscaping requirement. Furthermore, while the Town should also work to increase the tree canopy on public property by planting street trees, this article is a reasonable requirement for private property owners to add to the tree canopy as well.

Three members of the Board voted in favor of Article 30. One other Board member felt that this article would put too much of a burden on developers, perhaps requiring them to give up parking spaces to meet the requirements and thus making their development less economically feasible. Another Board member stated that this article was too prescriptive and rigid, given the space constraints of many sites and competing solar energy and on-site rainwater treatment requirements, among other examples. They noted that the Board and developers have worked effectively together in the past to come up with creative solutions to issues of landscaping that result in shaded areas, without the necessitation of such prescriptive and arbitrary requirements.

### **VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (3-2) – that the Zoning Bylaw be and hereby is amended as follows:**

### **DRAFT AMENDMENT**

**Amend SECTION 6.1.11, Parking and Loading Space Standards, Subsection D, as follows:**

- D. All parking and loading areas containing over five spaces which are not inside a structure shall also be subject to the following.

(6) Parking areas providing more than 25 spaces, including parking areas expanded to provide more than 25 spaces, shall include landscaped areas in at least 8% of the total paved portion of the parking area. Minimum required landscaped setbacks and buffers at the perimeter of the parking area shall not be counted toward the landscaping requirement of this paragraph. Individual strips of landscaping shall be at least four feet wide. In addition, pavement shade in such parking lots shall be provided by one or both of the following methods (for shading requirements in Industrial Districts, see 6.1.11.F.):

- a. Install one shade tree for every eight parking spaces; such trees must be spaced so that some part of each parking space is not more than 32 feet from a tree. Tree planting areas shall be at least six feet in diameter, or in accordance with the USDA Forest Service Tree Owner's Manual standards. New trees shall be at least three inches DBH (diameter at breast height) at the time of planting and shall be selected from a large shade tree list for parking lots under this section prepared by the Tree Warden or the Tree Committee.

To the extent practicable, existing trees shall be retained and used to satisfy this section. New trees shall be maintained, including watering, by the installer or its designee in accordance with the USDA Forest Service Tree Owner's Manual standards, or other standards the Redevelopment Board may designate, for a period of no less than 36 months from the date of planting.

The Redevelopment Board or Board of Appeals, as applicable, may modify this requirement to take into account parking spaces that are currently shaded by off-property trees that are not planned for removal.

- b. Install solar panels over parking spaces allowing cars to park underneath to increase shade to a minimum of 50% of the parking lot surface. This provision is applicable to parking lots in the residential and business districts.

## ARTICLE 31:

### ADD 5-7 WINTER STREET TO THE MBTA NEIGHBORHOOD DISTRICT

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

#### ARTICLE 31 ZONING BYLAW AMENDMENT / ADD 5-7 WINTER TO THE MBTA NEIGHBORHOOD DISTRICT

To see if the Town will vote to add the Address of 5-7 Winter St., to the Neighborhood Multi-Family (NMF) Subdistrict Parcel List. So that the Map/Table listing of all the properties in the Neighborhood Multi-Family (NMF) Subdistrict includes the following property, the additional line will read as follows:

Address	Owner	Existing Use Codes	Existing Use Description	Parcel Acres	Parcel Square Footage
5-7 Winter St.	AML Realty Trust	104	Two Family Residential	0.420	18,306

; or take any action related thereto.

(Inserted at the request of John D. Leone and 10 registered voters)

#### DISCUSSION

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Article 31 would rezone 5-7 Winter Street to be included in the Multi-Family Neighborhood Subdistrict of the MBTA Communities Overlay District. 5-7 Winter Street is currently surrounded by properties included in the Multi-Family Neighborhood Subdistrict and zoned commercial properties along Mass Ave. Properties in the MBTA Communities Overlay and commercial properties on Mass Ave have allowable taller heights, meaning that those properties could all be redeveloped to the maximum height allowed, but that 5-7 Winter Street could not. Should the redevelopment of surrounding properties occur, the owners of 5-7 Winter Street would like to preserve their rights to redevelop as well, so as not to be surrounded by taller buildings. All Board members agreed with the substance of the rezoning.

5-7 Winter Street is on the National Register of Historic Properties, and any future redevelopment would still be subject to review by the Historical Commission. The property was originally not included in the Multi-Family Neighborhood Subdistrict due to its status as an historic property on the National Register, which is consistent with the stated approach of the MBTA Communities Working Group.

One Board member expressed concerns with the notification process regarding this article. Section 1.5 of the zoning bylaw says, "When a petition for a change in the zoning map is filed, such petition shall show that copies of the petition have been sent by registered or certified mail to all owners and immediate abutters of the land referred to in the petition." That was not done by the petitioner at the time of filing the petition. Instead, such notice was given by the petitioner after the March 4 Board hearing on the article. Town Counsel expressed the opinion that the notification was enough to satisfy the requirement of the bylaw, providing that at the time the notification was made, the opportunity for public comment had not passed. Accordingly, the Chair re-opened Article 31 for public comment during the Board meeting on March 18, 2024. The petitioner argued that Section 1.5 of the zoning bylaw does not specify that the required notice is for the Redevelopment Board hearing, and that he interpreted it as requiring adequate notice for Town Meeting. The majority of Board members relied on Town

Counsel's determination that adequate notice had been given. The Board member who opposed the change stated that he favored the change but believed the notice to abutters was inconsistent with the bylaw and that reopening the comment period did not include adequate notice to the abutters.

**VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (4-1) – that the Zoning Bylaw and Zoning Map/Table be and hereby is amended as follows:**

**DRAFT AMENDMENT**

**Amend the MBTA Communities Overlay District Parcel List for the Neighborhood Multi-Family (NMF) Subdistrict as follows:**

- Add a row to the Parcel List table to include the property at 5-7 Winter Street; so that said row reads as follows:

Address	Owner	Existing Use Codes	Existing Use Description	Parcel Acres	Parcel Square Footage
5-7 Winter St.	AML Realty Trust	104	Two Family Residential	0.42025	18,306

## ARTICLE 32: TRAFFIC VISIBILITY

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### ARTICLE 32

### ZONING BYLAW AMENDMENT / TRAFFIC VISIBILITY

To see if the Town will vote to amend Section 5.3.12(A) of the Town's Zoning Bylaw to permit buildings, structures or vegetation across street corners if it can be shown that they will not restrict visibility in such a way as to hinder the safe transit of a vehicle through the subject intersection; or take any action related thereto.

(Inserted at the request of Caitlin Elizabeth Monaghan and 10 registered voters)

### DISCUSSION

Article 32 would allow an exception to the restrictions on the height and placement of structures including fences, vegetation, and buildings on corner lots in Section 5.3.12.A of the Zoning Bylaw, if the proposed element can be shown to not restrict visibility for drivers. Section 5.3.12.B already allows such for an exception next to driveways on non-corner lots so long as "it can be shown that the vegetation or structure will not restrict visibility as to hinder the safe entry of a vehicle from any driveway to the street." The proposed exception would allow for the placement of structures, vegetation, and buildings that are tall enough to protect children and pets. Given that Section 5.3.12.B already allows an exception to the restrictions on structures and vegetation near driveways, some Board members felt that it made sense to allow a similar exception for corner lots in Section 5.3.12.A.

Some Board members felt that allowing an exception for fences that are "transparent enough" not to restrict visibility was too vague, and a specific percentage of transparency should be included. The Board did not feel qualified to determine what percentage of transparency would make such a fence safe for visibility around corners and did not want to include a specific percentage of transparency without more information.

One Board member, at the suggestion of the Board, consulted with the Inspectional Services Department (ISD) and reported to the Board that ISD wrote that it would not support the increased height as it risked reducing visibility around corners for vehicular traffic. ISD requested that if the Board were to support Article 32, language be added indicating that the visibility would not be restricted in the future, for example, if vegetation had grown to an impermissible height or density. Several different versions of the language to be added to Section 5.3.12.A were proposed, but some Board members stated that they could not support a change that was not supported by ISD, which would be responsible for enforcing it.

### VOTE AND RECOMMENDATION TO TOWN MEETING

**VOTE:** No Action (3-2) – that no action be taken on Article 32.

# ARTICLE 33:

## REAR YARD SETBACKS IN BUSINESS DISTRICTS

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### **ARTICLE 33**

### **ZONING BYLAW AMENDMENT / REAR YARD SETBACKS IN BUSINESS DISTRICTS**

To see if the Town will vote to amend the Zoning Bylaw Section 5.5.2, Dimensional and Density Regulations, to adjust the rear yard setback requirement for uses of four or more stories in the Business Districts; or take any action related thereto.

(Inserted at the request of Andrew S. Greenspon and 10 registered voters)

### **DISCUSSION**

Article 33 seeks to amend the current bylaw which requires a 20-foot rear setback for a commercial property abutting a residential property for buildings up to three stories and requires a 30-foot rear setback for buildings of four or more stories. Article 33 would require a 20-foot rear setback for the first three stories and a 30-foot setback for any additional stories. The proponent argued and the Board agreed that allowing the smaller setback on lower stories may provide for more commercial space in mixed-use developments, which may make them more economically feasible to build. Because upper stories will still be subject to the larger setback, this change will not be detrimental to residential properties abutting commercial and mixed-use properties.

### **VOTE AND RECOMMENDATION TO TOWN MEETING**

**VOTE: Favorable Action (5-0) – that the Zoning Bylaw be and hereby is amended as follows:**

### **DRAFT AMENDMENT**

**Amend SECTION 5.5.2, Dimensional and Density Regulations, Subsection A, as follows:**

A. Tables of Dimensional and Density Regulations

B District Yard and Open Space Requirements

District Use	Minimum Requirement		
	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)
...			
Note: L is the length of a wall parallel (or within 45 degrees of parallel) to lot line, measured parallel to lot line, subject to the provisions of Section 5.3.15 for buildings of uneven alignment or height. H is the height of that part of the building for which the setback or yard is to be calculated.			

\* 0 feet when abutting an alley or rear right-of-way of at least 10 feet of width

\* 10 feet when abutting a non-residential district

\* 20 feet for three or fewer stories when abutting a residential district

~~\* 30 feet for four and more stories when abutting a residential district~~

\* For buildings of four or more stories: 20 feet for the first three stories and 30 feet for the fourth and higher stories when abutting a residential district

\* If the rear yard abuts both a residential and non-residential district, the minimum requirement for the residential district shall apply.

## ARTICLE 34: RESIDENTIAL USES

*Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.*

### ARTICLE 34

### ZONING BYLAW AMENDMENT / RESIDENTIAL USES

To see if the Town will vote to amend Section 5.4 of the Town's Zoning Bylaws by changing the definitions, regulations and requirements of R0 Large Lot Single-Family Districts, R1 Single-Family Districts and R2 Two-Family Districts to permit the expansion of allowable residential uses in these districts, with the goal of diversifying the Town's housing stock; or take any action related thereto.

(Inserted at the request of John Paul Lewicke and 10 registered voters)

### DISCUSSION

The proponents of Article 34 requested that this article be withdrawn or that the Redevelopment Board recommend no action.

### VOTE AND RECOMMENDATION TO TOWN MEETING

**VOTE: No Action (5-0) – that no action be taken on Article 34.**